

TEXT OF PROPOSED REPEAL OF REGULATIONS

In the following proposed regulation, strikethrough indicates repealed text.

The Heading for Subchapter 7, Parole Hearings Division is repealed.

~~Subchapter 7. Parole Hearings Division~~

Section 3901.7.4 is repealed:

~~3901.7.4. Appeals Coordinator Designation.~~

- ~~-(a) Multijurisdiction Prisoner. The appeals coordinator for multijurisdiction prisoners shall be:~~
 - ~~-(1) Interstate and Western Interstate Corrections Compacts, federal compact, federal concurrent, federal consecutive, concurrent, and consecutive: A classification staff representative of the interstate unit.~~
 - ~~-(2) Out to Court and California Agency Prisoners: The classification and parole representative in the department institution designated by the department to maintain the prisoner's central file.~~
- ~~-(b) Incarcerated Multijurisdiction Parolees. The appeals coordinator for multijurisdiction parolees incarcerated in a penal institution shall be:~~
 - ~~-(1) Multijurisdiction parolees incarcerated in a department institution: The classification and parole representative.~~
 - ~~-(2) Multijurisdiction parolees located in California: A classification staff representative of the interstate unit.~~
 - ~~-(3) Multijurisdiction parolees located outside California: A classification staff representative of the interstate unit.~~
- ~~-(c) Non-Incarcerated Multijurisdiction Parolees. The appeals coordinator for parolees not incarcerated in a penal institution shall be:~~
 - ~~-(1) Concurrent parolees and cooperative parolees: A parole agent III or higher of the interstate unit.~~
 - ~~-(2) California concurrent parolees: A parole agent III or higher in the parolee's supervision region.~~
 - ~~-(3) California agency parolees: A parole agent III or higher in the parolee's supervision region.~~

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45, Reference: Sections 3060, Penal Code.

Article 5 is repealed:

~~Article 5. Length and Conditions of Parole~~

Section 3901.9.1 is repealed:

~~3901.9.1. Department Responsibilities.~~

~~The department shall establish and impose the special conditions of parole and length of parole within the statutory maximum for all prisoners sentenced to a term of imprisonment under Penal Code section 1170, except for those who meet the criteria set forth in Penal Code section 2962.~~

~~NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3000 and 5077, Penal Code.~~

Section 3901.9.4 is repealed.

~~3901.9.4. Special Conditions of Parole.~~

~~Special conditions may be established and imposed by the department or the parole hearings division as provided in section 3901.9.1, and are in addition to the general conditions of parole. Special conditions include:~~

~~(a) "To participate in psychiatric treatment. You agree to participate in the psychiatric treatment program approved for you by the parole and community services division." This special condition shall be imposed whenever the parole hearings division or the department's psychiatric staff have determined that treatment is required for successful adjustment on parole.~~

~~(b) "To abstain from alcoholic beverages. You agree to totally abstain from the use of any alcoholic beverages or liquors." This special condition shall be imposed whenever the circumstances of the commitment offense are such that this condition is required by the provision of Penal Code section 3053.5. This special condition may also be imposed whenever the department determines that such a condition is warranted by the circumstances of the case.~~

~~(c) "To participate in anti-narcotic testing. You agree to participate in anti-narcotic testing in accordance with instructions from a parole agent." This special condition may be imposed if there is a documented or admitted history of controlled substance usage.~~

~~(d) "Residence. You shall maintain a residence with a street address or a dwelling location approved in writing by the parole and community services division." This special condition shall be imposed on all parolees required to register under the provisions of Penal Code sections 290 and 457.1, and Health and Safety Code section 11590.~~

~~(e) Other. Any other condition deemed necessary by the parole hearings division board of prison terms or the department due to unusual circumstances. This special condition shall be imposed whenever warranted by unusual circumstances. The reasons for its imposition shall be sufficiently documented in the parolee's central file to explain the need for imposition. A special condition of parole which requires the parolee to participate in a live in program shall not be imposed without a hearing by the parole hearings division board of prison terms.~~

~~NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 290 and 457.1, Penal Code; and Section 11590, Health and Safety Code.~~

Article 9 is repealed.

~~Article 9. Parole Hold Policy~~

Sections 3901.17.1 through 3901.17.5 are repealed.

~~3901.17.1. Authority to Place Parole Hold.~~

~~(a) A parole agent may impose a parole hold only when the parole agent determines that the parolee falls within the criteria listed in section 3901.17.2, and there is probable cause to believe the parolee has violated parole.~~

~~-(b) The hold decision must be made in every case regardless of the type of crime or parole violation with which the parolee is charged and regardless of whether another criminal justice agency is detaining the parolee.~~

~~-(c) A parole agent may place a parole hold on a parolee when he/she is already confined as the result of a new criminal charge or may arrest a parolee and place him/her in a local jail facility or state prison on a parole hold pending investigation of alleged parole violations.~~

~~-(d) The fact that a parolee has been released on bail or his/her own recognizance does not serve as a substitute for the parole agent's decision to place a hold. The parole hearings division must consider the threat to the community. A case may be presented to the parole hearings division at the central office calendar for a decision regarding the placement of a parole hold.~~

~~-(e) An absconder whose parole has been suspended and who has been subsequently apprehended, but who does not require the placement of a parole hold under one of the criteria listed in section 3901.17.2 should be reported to the parole hearings division at the central office calendar to be reinstated on parole pending further determination, and any outstanding warrants should be recalled.~~

~~NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3056, 3057, and 11175, Penal Code.~~

~~3901.17.2. Criteria for Placement of Parole Hold.~~

~~-(a) A parolee suspected of a parole violation may be detained by a parole hold for any of the following reasons:~~

~~-(1) He/She is a danger to him/herself.~~

~~-(2) He/She is a danger to the person or property of another.~~

~~-(3) He/She may abscond.~~

~~-(b) In addition, a parole hold may be placed where the parolee is alleged to be a person described in Section 3901.19.2.~~

~~NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Section 3056, Penal Code.~~

~~3901.17.3. Parole Hold Considerations.~~

~~Examples of factors to be considered in deciding whether to place a parole hold include:~~

~~-(a) The emotional or mental health of the parolee resulting in the parolee being a danger to self or others, or being unable to adequately take care of him/herself.~~

~~-(b) The presence of drug or alcohol abuse. If drug or alcohol abuse is the only factor warranting a parole hold, the parolee should be placed in jail on a parole hold only when there is no suitable alternative available, such as hospital, detoxification center, or substance abuse treatment control unit with adequate security.~~

~~-(c) The seriousness of the alleged parole violation.~~

~~-(d) Prior instances of assaultive behavior when the present violation relates to danger to others.~~

~~-(e) Involvement in the transportation, sale, or distribution of narcotics or dangerous restricted drugs.~~

- ~~-(f) Present threats of violence.~~
- ~~-(g) Repeated unlawful conduct during the parolee's current parole in contrast to a "one time" incident.~~
- ~~-(h) Record of escapes from custody or absconding from parole, probation or bail.~~
- ~~-(i) Nomadic geographical pattern of prior arrests.~~
- ~~-(j) Employment history and stability.~~
- ~~-(k) Residential pattern.~~
- ~~-(l) Nature of family and community relationships.~~
- ~~-(m) Necessary psychiatric treatment cannot be obtained in the community.~~

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Section 3056, Penal Code.

~~3901.17.4. Review of a Parole Hold.~~

- ~~-(a) Initial Review. As soon as possible, but no later than 4 days after the placement of a parole hold, the parole agent must have a case conference with the unit supervisor to determine whether the parole hold should be continued.~~
- ~~-(b) Replacing a Parole Hold. Once a parole hold is dropped, it should not be replaced unless new information has been received which indicates that the parolee falls within section 3901.17.2. If the parole hold is replaced, the parolee shall be given the reasons in writing as provided in section 3901.17.5.~~
- ~~-(c) Later Removal of a Parole Hold. In appropriate cases, the field administrator may later remove a parole hold.~~
- ~~-(d) Parole Hearings Division Review. The parole hearings division is authorized to order a parole hold placed, replaced, or removed at any time. The decision regarding a parole hold is final. On a semi annual basis the parole and community services division shall provide the parole hearings division information regarding the use of parole holds.~~

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Section 3056, Penal Code.

~~3901.17.5. Reasons for Parole Hold.~~

~~In all cases, the parole agent must notify the parolee in writing of the reasons for the hold as soon as possible but no later than seven days after placement of the parole hold. If the hold has been placed or replaced by the parole hearings division, the parole hearings division must notify the parolee in writing of the reasons for the hold. At the time the parolee is notified of the reasons for the parole hold parole and community services division staff shall also notify the parolee of his/her right to appeal the decision and the procedure for filing the appeal.~~

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Section 3056, Penal Code.

Article 10 is repealed.

Article 10. Parole Violations and Reports

Sections 3901.19.1 through 3901.19.6 are repealed.

~~3901.19.1. Parole Violation Authority.~~

~~The parole hearings division is authorized to revoke parole in any case where the parolee has violated parole. Parole violations listed in section 2616(a) must be reported to the parole hearings division. The parole and community services division is authorized to dispose of any other parolee misconduct.~~

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Section 3056, Penal Code.

~~3901.19.2. Behavior to Be Reported.~~

~~(a) Behavior Which Must Be Reported. The parole and community services division shall report to the parole hearings division any parolee who is reasonably believed to have engaged in the following kinds of behavior:~~

~~(1) Any violent conduct described under Penal Code section 667.5(c) or any other assaultive conduct resulting in serious injury to the victim.~~

~~(2) Possession, control or use of any firearms, explosive or weapons as defined in federal or state statutes, including weapons listed in California Penal Code section 12020, and any knife having a blade longer than two inches except as provided in 3901.9.3(a)(5)(C).~~

~~(3) Involvement in fraudulent schemes involving over \$1,000.~~

~~(4) Sale, transportation or distribution of any narcotic or other controlled substances as defined in Division 10 of the Health and Safety Code.~~

~~(5) A parolee whose whereabouts are unknown and has been unavailable for contact for 30 days.~~

~~(6) Any other conduct or pattern of conduct in violation of the conditions of parole deemed sufficiently serious by the parole and community services division staff.~~

~~(7) Facts indicating the parolee is suffering from a mental disorder which substantially impairs the parolee's ability to maintain him/herself in the community, or which makes the parolee a danger to him/herself or others, when necessary psychiatric treatment cannot be obtained in the community.~~

~~(8) The failure to register as provided in Penal Code section 290 if the parolee is required to register or the failure to provide blood specimens, right thumb print impressions, full palm print impressions of both hands, and a saliva sample as provided in Penal Code section 295 through 300.3, requiring sex offenders and violent offenders to provide these specimens and samples before release.~~

~~(9) The refusal to sign a parole agreement setting forth the conditions of parole.~~

~~(b) Behavior Which May be Reported. Any conduct which the parole agent, unit supervisor or field administrator feels is sufficiently serious to report regardless of whether the conduct is being prosecuted in court.~~

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45; Sections 295 through 300.3, Penal Code. Reference: Sections 295 through 300.3, 3000, 3056, 3057 and 3060, Penal Code.

~~3901.19.3. Investigation of Parole Violations.~~

~~A parole agent shall investigate all cases of a parolee suspected of a parole violation. All available facts relating to the charged violation shall be documented. If the parolee is suspected of a violation which is being investigated as a new crime by a police agency, the parole agent should obtain a copy of the arresting agency's arrest and investigation report. If the parolee is suspected of a violation which is not being~~

~~investigated as a new crime by a police agency, the parole agent should interview all persons who have knowledge of the conduct and record their statements.~~

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3000 and 3056, Penal Code.

~~3901.19.4. Parole Violation Report.~~

~~The parole violation report is a document prepared by the parole agent specifying the parole violation charges against a parolee, and containing or referring to the information known to the parole agent relevant to the charges. The parole violation report shall include a resume of the parolee's adjustment to community supervision. Any documents which relate to the parole violation shall be attached to the report or specifically identified in the report.~~

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3000 and 3056, Penal Code.

~~3901.19.5. Supplemental Parole Violation Reports.~~

~~A supplemental parole violation report may be submitted to: report significant new information or evidence which tends to prove or disprove the violations previously charged; note court actions on charges which are being prosecuted in a criminal proceeding; expand, clarify or correct information in an earlier report; add or amend charges before a hearing is scheduled; provide the parole hearings division with information not related to the violation, but which may affect the parole hearings division's decision regarding the appropriate disposition; provide additional information to the parole hearings division at any time requested by the parole hearings division; or change the parole and community services division recommendation. A copy of the supplemental parole violation report shall be given to the parolee within four days after the report has been submitted to the parole hearings division.~~

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3063, Penal Code.

~~3901.19.6. Parole Violation Recommendations.~~

~~The parole and community services division shall recommend the appropriate alternative necessary to deal with the violation charged. In a parole violation report the parole and community services division may make the following recommendations:~~

~~(a) Continue on Parole. This recommendation may be used when the violation charged is not serious enough to warrant reimprisonment. A continue on parole recommendation may include a recommendation to delete, modify, or add special conditions of parole.~~

~~(b) Local Program. This recommendation may be used when the violation charged does not require reimprisonment of the parolee but does require treatment which can be obtained in a community facility or program.~~

~~(c) Schedule for Revocation Proceedings, Psychiatric Treatment. This recommendation shall be used only when a parolee's adjustment indicates the parolee may be suffering from a mental disorder which substantially impairs the parolee's ability to maintain him/herself in the community, or which makes the parolee a danger to him/herself or others, when necessary psychiatric treatment cannot be obtained in the community. The recommendation shall not be made when violations of another term or condition of parole are charged. When this recommendation is made a psychiatric report shall accompany the parole violation report and shall be made available to the hearing panel.~~

~~(d) Schedule for Revocation Proceedings. This recommendation shall be used whenever the violation charged is so serious that reimprisonment is necessary whether or not the parolee is in need of medical or psychiatric treatment. This recommendation shall be used when a parolee who is required to register under Penal Code section 290 fails to register within the time prescribed in Penal Code section 290(g) and when they refuse to sign their conditions of parole.~~

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3000, 3056, 3057, 3060 and 3060.5 Penal Code.

~~3901.21.3. Parole and Community Services Division Review.~~

~~(a) Case Conference. After placement of a parole hold or discovery of information indicating a possible violation of parole, a case conference shall be held to determine if the violation shall be reported to the parole hearings division as required by section 3901.19.2. If the decision is that the violation must be reported to the parole hearings division, the parole agent shall prepare a parole violation report.~~

~~(b) Unit Supervisor Review. After preparation of a parole violation report, the unit supervisor shall review the report and either concur with the recommendation made or make an alternative recommendation.~~

~~(c) Field Administrator Review. The district administrator shall review the parole violation report and either concur with the recommendation made or make an alternative recommendation.~~

~~(d) Notification to Parole Hearings Division.~~

~~(1) The violation report shall be forwarded to the parole hearings division at the central office calendar if the parole and community services division recommends any action other than schedule for revocation proceedings, if the parolee is in suspended status, if the parolee has an imminent discharge date or if the case requires any action other than schedule for revocation proceedings.~~

~~(2) If the parole and community services division recommends that the parolee be scheduled for a prerevocation or revocation hearing and the case does not require any parole hearings division action prior to the hearing, the parole and community services division shall notify the parole hearings division hearing coordinator of the date the parolee was paroled, the date the parole hold was placed, and the need for a revocation hearing.~~

~~(3) The hearing coordinator shall schedule a revocation hearing based on that information and recommendation.~~

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Section 3060, Penal Code.

Article 18 is repealed.

~~Article 18. Worktime Credits~~

Sections 3901.35.1 through 3901.35.2 are repealed.

~~3901.35.1. Worktime Credits.~~

~~(a) Except for those parolees falling within the guidelines of section 3901.35.2, any revocation period imposed pursuant to section 3901.33.1 may be reduced in the same manner and to the same extent as the term of imprisonment may be reduced by worktime credits under Penal Code section 2933. Worktime credit must be earned and may be forfeited pursuant to the provisions of Penal Code section 2932.~~

~~(b) Worktime credit forfeited shall not be restored.~~

~~(c) Detention in a county jail facility or community correctional facility shall result in the application of time credits equal to those provided in Penal Code section 2931.~~

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 2931, 2932, 2933, and 3057, Penal Code.

3901.35.2. Non-Eligibility for Worktime Credits.

The following parolees are not eligible for credits:

~~—(a) Parolees who violate a condition of parole relating to association with specified persons, entering prohibited areas, attendance at parole out patient clinic, or psychiatric attention.~~

~~—(b) Parolees who were revoked for conduct described in, or that could be prosecuted under, any of the following sections whether or not prosecution is undertaken: Penal Code sections 189; 191.5; 192(a) or (c)(3); 203; 207; 211; 217.1; 220; 241(b); 244; 245(a)(1) or (2); 261(2); 264.1; 286(c) or (d); 288; 288a(c) or (d); 289; 347; 404; 451(a); 12020; 12021; 12022; 12022.5; 12022.7; 12022.8; 12025; or 12560; or Penal Code section 664 for any attempt to engage in conduct described in or that could be prosecuted under any of the above mentioned sections.~~

~~—(c) Parolees who were revoked for any reason if they had been granted parole after conviction of any of the offenses specified in section 3901.35.2(b).~~

~~—(d) Parolees who the parole hearings division finds at a revocation hearing to be unsuitable for reduction of the period of confinement because of the circumstances and gravity of the parole violation, or because of prior criminal history.~~

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Section 3057, Penal Code.